

REMARKS/ARGUMENTS

The Applicant respectfully requests reconsideration of the present application in view of the above changes to the claims and the following remarks, which are responsive to the Office Action mailed August 27, 2007.

I. Status of Claims

In the Office Action, Claims 1-21 were noted as pending in the application and were rejected. As a result of this response, Claims 8-10 and 13-15 have been canceled, and Claims 6 and 11-12 have been amended in order to correct a typographical error found in Claim 6 and to update the dependent of Claims 11 and 12 in light of the cancellation of Claim 9. In addition, new Claims 22-27 have been added. Applicant respectfully asserts that none of these claims is directed toward new subject matter not disclosed in the original Application as filed.

II. Rejection of Claims

The Office Action rejected Claims 1, 3-4, 16 and 19 under 35 U.S.C. § 102(a/e) as anticipated by U.S. Patent No. 6,665,810 to Sakai (hereinafter "*Sakai*"). The Office Action further rejected Claims 2 and 8-12 under 35 U.S.C. § 103(a) as obvious in light of *Sakai* in view of U.S. Patent No. 6,405,256 to Lin et al. (hereinafter "*Lin*"). Claims 5-7, 17-18 and 20-21 were rejected under 35 U.S.C. § 103(a) as obvious in light of *Sakai* in view of U.S. Patent No. 5,619,650 to Bach (hereinafter "*Bach*"); and Claims 13-15 were rejected under 35 U.S.C. § 103(a) as obvious in light of *Sakai* in view of *Lin* combined *Bach*.

a. 35 U.S.C. 102 – *Sakai*

i. Independent Claims 1 and 16

Independent Claims 1 and 16 are reproduced below for the Examiner's convenience:

1. (Original) A communications system comprising:
a first host capable of transmitting multiplexed data at a first data transfer rate;
a second host capable of receiving multiplexed data at a second data transfer rate;
and
a data throttle, wherein the data throttle limits the first data transfer rate to a throttle value that is less than or equal to the lesser one of the first data transfer rate and the second data transfer rate.
16. (Original) A method of communication between a first host and a second host, comprising:
obtaining a data transfer rate of the first host and a data transfer rate of the second host at which the second host may receive data;
setting a throttle value that is less than or equal to the lesser of the data transfer rate of the first host and the data rate of the second host; and
transmitting data packets from the first host to the second host at a data transfer rate that is less than or equal to the throttle value.

Applicant respectfully asserts that *Sakai* does not teach or suggest each of the recitations of independent Claim 1 or 16. In particular, Applicant respectfully asserts that *Sakai* does not teach or suggest “a data throttle ... [that] limits the first data transfer rate [at which a first host is capable of transmitting multiplexed data] to a throttle value that is less than or equal to the lesser one of the first data transfer rate and the second data transfer rate [at which a second host is capable of receiving multiplexed data],” as recited in Applicant's independent Claim 1. Similarly, with regard to independent Claim 16, Applicant respectfully asserts that *Sakai* does not teach or suggest “setting a throttle value that is less than or equal to the lesser of the data transfer rate of the first host and the data transfer rate of the second host.”

Sakai discloses an “interface controller [that] adaptively changes the data transfer rate of data being transferred between two or more devices *depending on whether one of the devices is powered by an internal power supply and on the destination of that data.*” (*Sakai*, Abstract, *Emphasis added*). According to *Sakai*, the “interface controller 1 is part of a DVC 2” that is connected to a PC and a VCR. (*Id.* at 3:40-47, Fig. 6). “The internal circuit 12 [of the DVC]

determines whether the transfer data is addressed to the DVC. If so, the transfer data is provided to an internal processing circuit 50 which executes image processing. On the contrary, if the data is not addressed to the DVC 2, the internal circuit 12 provides the transfer data stored in the buffer 15 to the interface circuit 11 to perform a repeat transfer operation.” (*Id.* at 3:61 – 4:1).

The interface controller of *Sakai* further includes a “clock control circuit 13” that is connected to the “internal circuit 12” and includes “a power supply decision circuit 16, a self-device decision circuit 17 and a repeat decision circuit 18.” (*Id.* at 4:5-15). The “clock control circuit 13 generates a control signal SD based on these decision results” and provides the control signal to a “clock generator 14 [that] receives the control signal SD ... and uses it to determine the frequency of a clock signal CLK provided to the clock generator 14.” (*Id.* at 4:23-29). According to *Sakai*, “the frequency of the clock signal CLK is changed based on the control signal SD[, and t]he internal circuit 12 and the interface circuit 11 transfer data stored in the buffer 15 in sync with the clock signal CLK.” (*Id.* at 4:40-42).

The following provides a description of how SD is determined according to *Sakai*:

If the repeat transfer function is executed when the DVC 2 is powered by the battery B, the frequency dividing circuit 20 sets a first frequency dividing ratio in response to the control signal SD. The first frequency dividing ratio corresponds to the transfer rate of 400 megabits per second. Accordingly, the DVC 2 executes the communication at the transfer rate of 400 megabits per second. When the DVC 2 is powered by the battery B and the data transfer for the self-device is performed, the frequency dividing circuit 20 sets a second frequency dividing ratio in response to the control circuit SD. The second frequency dividing ratio corresponds to the transfer rate of 100 megabits per second. Accordingly, the DVC 2 executes the communication at the transfer rate of 100 megabits per second.

On the contrary, when the DVC 2 is powered by an external power supply, the frequency dividing circuit 20 sets the first frequency dividing ratio in response to the control signal SD. Accordingly, the DVC 2 executes the repeat transfer and the image data transfer at the transfer rate of 400 megabits per second.

(*Id.* at 4:43-62, *See also* Fig. 6 compared to Fig. 7).

As shown above, the data transfer rate of the interface controller of *Sakai* is based on two factors: (1) whether the devices involved are powered by a battery or an external power supply;

and (2) the final destination of the data (i.e., self-device or repeat transfer). Neither of these factors corresponds to the data transfer rates at which first and second hosts are capable of transmission and reception, respectively. As a result, *Sakai* does not teach or suggest setting a throttle value that is less than or equal to the lesser of first and second data transfer rates associated with first and second hosts, respectively, or a data throttle that limits a first data transfer rate at which a first host is capable of transmitting multiplexed data to the throttle value that is set in this manner, as recited in Applicant's independent Claims 1 and 16, respectively.

Based on the foregoing, Applicant respectfully asserts that *Sakai* does not anticipate independent Claim 1 or 16 and respectfully requests that the rejection of these claims be withdrawn.

ii. Independent Claim 19

Independent Claim 19 is reproduced below for the Examiner's convenience:

19. (Original) A method of communication across a network and between a first host and a second host, comprising:
- receiving a throttle value that is less than or equal to the lesser of a data transfer rate of the first host, a data transfer rate of the second host, and a data transfer rate of the network rate;
 - setting the maximum data transfer rate of the first host to the throttle value; and
 - transmitting data packets from the first host to the second host at a data transfer rate that is less than or equal to the throttle value.

Applicant respectfully asserts that *Sakai* does not teach or suggest each of the recitations of independent Claim 19. In particular, *Sakai* does not teach or suggest "receiving a throttle value that is less than or equal to the lesser of a data transfer rate of the first host, a data transfer rate of the second host, and a data transfer rate of the network rate; [or] setting the maximum data transfer rate of the first host to the throttle value," as recited in Applicant's independent Claim 19.

As discussed above with regard to independent Claims 1 and 16, *Sakai* does not teach or suggest a data throttle value that is based on the data transfer rates associated with first and second hosts, respectively. In addition, the Office Action concedes that *Sakai* "is silent on the

network having a third data transfer rate and limiting the throttle value based on the third data transfer rate.” (Office Action, Page 4). As a result, *Sakai* could not teach or suggest receiving a throttle value that is less than or equal to the lesser of these three data transfer rates. Based on the foregoing, Applicant respectfully asserts that *Sakai* does not anticipate independent Claim 19 and respectfully requests that the rejection of this claim be withdrawn.

iii. Dependent Claims 3-4

Claims 3-4 depend from independent Claim 1 and include all of the recitations of the base claim and any intervening claims plus their additional recitations that further distinguish the art applied in the rejection. Thus, for at least the reasons set forth above with respect to independent Claim 1, it is respectfully submitted that dependent Claims 3-4 are further patentable over the references cited as such dependent claims now depend from an allowable base claim.

b. 35 U.S.C. 103 – *Sakai* in view of *Lin*

As noted, Claims 8-10 have been canceled. The rejection of these claims is, therefore, moot. Dependent Claims 2, 11 and 12 depend from independent Claim 1 and include all of the recitations of the base claim and any intervening claims plus their additional recitations that further distinguish the art applied in the rejection. Thus, for at least the reasons set forth above with respect to independent Claim 1, it is respectfully submitted that dependent Claims 2, 11 and 12 are further patentable over the references cited as such dependent claims now depend from an allowable base claim.

c. 35 U.S.C. 103 – *Sakai* in view of *Bach*

Dependent Claims 5-7, 17-18, and 20-21 depend, respectively, from independent Claims 1, 16 and 19 and include all of the recitations of their base claim and any intervening claims plus their additional recitations that further distinguish the art applied in the rejection. Thus, for at least the reasons set forth above with respect to independent Claims 1, 16 and 19, it is

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respectfully submitted that dependent Claims 5-7, 17-18, and 20-21 are further patentable over the references cited as such dependent claims now depend from allowable base claims.

d. 35 U.S.C. 103 – *Sakai* in view of *Lin* and *Bach*

Dependent Claims 13-15 have been canceled. The rejection of these claims is, therefore, moot.

III. Conclusion

In light of the remarks above, Applicant respectfully submits that the application is in condition for allowance and respectfully requests that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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